

Remarks/Arguments:

As a preliminary matter, the applicant notes with appreciation the Examiner's indication that claims 27 and 28 would be allowable if rewritten in independent form. The applicant has added claim 31, which corresponds to previous claim 27 rewritten in independent form and claim 32 which corresponds to previous claim 28 rewritten in independent form.

The pending claims have been amended to more clearly reflect the applicant's invention. For example, independent claims 1, 17, and 22 have been amended to recite "a tab extending in a plane perpendicular to the blade in at least three directions transverse to a lengthwise edge of the blade...." Claims 3 and 25 were cancelled without prejudicing the applicant's right to prosecute them in subsequent applications.. Support for the claim amendments can be found throughout the specification and the figures. See e.g., Figures 8, 9, and 13. Additional amendments to the claims were also made to put the claims in better form for allowance.

Turning to the Office Action of September 9, 2004 (the Office Action), claims 1-13, 17-25, and 27-29 were pending in this application. The Office Action objected to claims 13, 27, and 28. The Office Action also rejected claims 1-13, 17-25, and 29.

The applicant respectfully submits that independent claims 1, 17, and 22, as amended, are patentably distinct from the cited references because, at a minimum, the references fail to teach or suggest

"[a] tab extending in a plane perpendicular to the blade in at least three directions transverse to a lengthwise edge of the blade...."

Distinctions between the applicant's invention as claimed and the cited references are discussed further below.

35 USC §102(b)

The Office Action rejected claims 1 and 3 as anticipated under 35 U.S.C. § 102(b) by United States Patent 2,574,272 to McCully (McCully), United States Patent 4,924,597 to Tursi (Tursi), United States Patent 5,367,785 to Benarroch (Benarroch), and United States Patent 5,062,215 to Schlitt (Schlitt).

The first cited reference, McCully, discloses a hook (14) which includes a tab (18) and a heel extension (38). McCully certainly fails to disclose a tab extending in three directions transverse to the lengthwise edge of the blade. At best, McCully teaches a tab extending in two directions: up and down.

The remaining references, Tursi, Bennaroch, and Schlitt, likewise disclose tab portions that extend only in two directions transverse to the blade: up and down.

First, Tursi discloses a "hook head 98 [that] extends on both top and bottom of the tape measure so the hook can be attached to the item being measured to fix the tape in position." See column 4, lines 51-56; Fig. 1.

Second, Bennaroch discloses a "locking end zone [that] is preferably of a generally T-shaped configuration such that it includes a measuring flap 47 and a locking flap 48 extending from opposite sides of the terminal end 45." See column 2, lines 34-47, Figs. 1 and 3.

Finally, Schlitt discloses a "stop 16 [that] has upper grips 17 and a lower grip 18 which are disposed opposite each other and approximately perpendicular to the plane of the tap 12 for engaging the work piece to be measured." See column 2, lines 61-67; Fig. 1.

None of the cited references teach or suggest a tab that is transverse to the tape measure blade in three directions. The applicant respectfully submits that for at least this reason, the applicant's invention as claimed is patentably distinct from the cited references. Therefore, the applicant respectfully requests that these rejections be withdrawn.

35 USC §103(a)

The Office Action rejected claims 2, 6-8, and 29 as unpatentable under 35 U.S.C. § 103(a) over McCully, Tursi, Benarroch, and Schlitt in view of United States Patent 4,574,486 to Drechsler (Drechsler). The Office Action also rejected claims 9, 10, 17, 19, 22, and 25 as unpatentable under 35 U.S.C. § 103(a) over McCully, Tursi, Benarroch, and Schlitt in view of United States Patent 5,291,664 to Pinney, Jr. (Pinney). Finally, as the Office Action rejected claims 13 and 18 as unpatentable under 35 U.S.C. § 103(a) over McCully, Tursi, Benarroch, and Schlitt in view of Pinney and further in view of Drechsler.

As noted above, McCully, Tursi, Bennaroch, and Schlitt, taken individually or in combination with Pinney and/or Drechsler, fail to teach or suggest a three directionally transverse tab as recited in amended claims 1, 17, and 22. Because each of the combinations proposed by the Office Action fail to teach or suggest at least this limitation, the applicant respectfully submits that no case of *prima facie* obviousness is made. Further, because the remaining pending claims 2, 4-13, 18-21, 23-24, and 27-29 depend directly or indirectly from independent claims 1, 17, and 22, the applicant respectfully submits that these dependent claims are allowable over the cited references.

Conclusion

For the foregoing reasons, the applicant respectfully submits that the pending claims as amended are allowable over the cited references. A Notice to this effect is earnestly requested.

Respectfully submitted,



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